

AMENDED IN SENATE JUNE 10, 1998  
AMENDED IN ASSEMBLY JANUARY 15, 1998  
AMENDED IN ASSEMBLY JANUARY 6, 1998  
AMENDED IN ASSEMBLY MAY 23, 1997  
AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 681**

**Introduced by Assembly Member Machado**

February 26, 1997

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An act to add Sections 25297.15, 25299.37.2, and 25355.8 to the Health and Safety Code, and to add Section 13307.1 to the Water Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 681, as amended, Machado. Environmental remediation: closure.

(1) Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, requires the Department of Toxic Substances Control or a California regional water quality control board to prepare or approve remedial action plans, which specify, among other things, removal and remedial actions selected for the cleanup of all hazardous substance release sites identified and categorized pursuant to a specified procedure. The department and the State Water Resources Control Board are required to concurrently establish consistent policies and procedures to be used by each

agency in overseeing the investigation and taking of removal and remedial actions at hazardous substance release sites, in the case of the department, and in overseeing the investigation of, and cleaning up or abating the effects of, discharges of a hazardous substance, in the case of the state board.

Under existing law, the state board is authorized to develop and implement a local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by local agencies.

Existing law specifies procedures for the taking of corrective action to unauthorized releases of petroleum from underground storage tanks.

This bill would prohibit considering cleanup or site closure proposals from the primary or active responsible party or discharger, as the case may be, the issuance of a closure letter, or a determination that no further action is required by a local agency with respect to an unauthorized release of hazardous substances from an underground storage tank, a local agency, a regional board, or the state board with regard to an unauthorized release of petroleum from an underground storage tank, ~~the department with respect to a hazardous substances release site under the act,~~ or the state board or a regional board with respect to a site subject to a cleanup or abatement order, unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the local agency, ~~department,~~ state board, or regional board, as the case may be.

The bill would require the above described entities to take all reasonable steps necessary to accommodate landowner participation in the cleanup or site closure process and to consider all input and recommendations from any landowner wishing to participate.

*The bill would prohibit the department, upon receiving a specified request, from overseeing the preparation of, or reviewing, a preliminary endangerment assessment for property if action may be necessary to address a release or threatened release of a hazardous substance and from issuing a letter stating that no further action is necessary with regard*



*to property unless the person requesting department action provides the department with specified information. The bill would prescribe related matters.*

Since the bill would require local agencies to take specified actions with regard to unauthorized releases, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25297.15 is added to the Health  
2 and Safety Code, to read:

3 25297.15. (a) The local agency shall not consider  
4 cleanup or site closure proposals from the primary or  
5 active responsible party, issue a closure letter, or make a  
6 determination that no further action is required with  
7 respect to a site upon which there was an unauthorized  
8 release of hazardous substances from an underground  
9 storage tank subject to this chapter unless all current  
10 record owners of fee title to the site of the proposed action  
11 have been notified of the proposed action by the local  
12 agency.

13 (b) The local agency shall take all reasonable steps  
14 necessary to accommodate landowner participation in  
15 the cleanup or site closure process and shall consider all  
16 input and recommendations from any landowner wishing  
17 to participate.

18 SEC. 2. Section 25299.37.2 is added to the Health and  
19 Safety Code, to read:

20 25299.37.2. (a) The local agency, the board, or a  
21 regional board shall not consider corrective action or site  
22 closure proposals from the primary or active responsible  
23 party, issue a closure letter, or make a determination that

1 no further corrective action is required with respect to a  
2 site upon which there was an unauthorized release of  
3 petroleum from an underground storage tank subject to  
4 this chapter unless all current record owners of fee title  
5 to the site of the proposed action have been notified of the  
6 proposed action by the local agency, board, or regional  
7 board.

8 (b) The local agency, board, or regional board shall  
9 take all reasonable steps necessary to accommodate  
10 landowner participation in the cleanup or site closure  
11 process and shall consider all input and recommendations  
12 from any landowner wishing to participate.

13 SEC. 3. Section 25355.8 is added to the Health and  
14 Safety Code, to read:

15 ~~25355.8. (a) The department shall not consider~~  
16 ~~cleanup or site closure proposals from the primary or~~  
17 ~~active responsible party, issue a closure letter, or make a~~  
18 ~~determination that no further action is required with~~  
19 ~~respect to a hazardous substances release site subject to~~  
20 ~~this chapter unless all current record owners of fee title~~  
21 ~~to the site of the proposed action have been notified of the~~  
22 ~~proposed action by the department.~~

23 ~~(b) The department shall take all reasonable steps~~  
24 ~~necessary to accommodate landowner participation in~~  
25 ~~the cleanup or site closure process and shall consider all~~  
26 ~~input and recommendations from any landowner wishing~~  
27 ~~to participate.~~

28 *25355.8. (a) The department shall not agree to*  
29 *oversee the preparation of, or to review, a preliminary*  
30 *endangerment assessment for property if action is, or*  
31 *may be, necessary to address a release or threatened*  
32 *release of a hazardous substance, and the department*  
33 *shall not issue a letter stating that no further action is*  
34 *necessary with regard to property, unless the person*  
35 *requesting the department action does either of the*  
36 *following:*

37 *(1) Provides the department with all of the following:*

38 *(A) Proof of the identity of all current record owners*  
39 *of fee title to the property and their mailing addresses.*

1 (B) Written evidence that the owners of record have  
2 been sent a notice that describes the actions completed  
3 or proposed by the requesting person.

4 (C) An acknowledgment of the receipt of the notice  
5 required in subparagraph (B), from the property owners  
6 or proof that the requesting person has made reasonable  
7 efforts to deliver the notice to the property owner and  
8 was unable to do so.

9 (2) Proof of the identity of all current record owners  
10 of fee title to the property and proof that the requesting  
11 person has made reasonable efforts to locate the property  
12 owners and was unable to do so.

13 (b) The department shall take all reasonable steps  
14 necessary to accommodate property owner participation  
15 in the site remediation process and shall consider all input  
16 and recommendations received from the owner of  
17 property which is the subject of the proposed action.

18 (c) This section only applies to instances where a  
19 person requests the department to oversee the  
20 preparation of, or to review, a preliminary endangerment  
21 assessment, or requests the department to issue a letter  
22 stating that no further action is necessary with regard to  
23 property. Nothing in this section imposes a condition  
24 upon, limits, or impacts in any way, the department's  
25 authority to compel any potentially responsible party to  
26 take any action in response to a release or threatened  
27 release of a hazardous substance or to recover costs  
28 incurred from any potentially responsible party.

29 SEC. 4. Section 13307.1 is added to the Water Code, to  
30 read:

31 13307.1. (a) The state board and the regional boards  
32 shall not consider cleanup or site closure proposals from  
33 the primary or active responsible discharger, issue a  
34 closure letter, or make a determination that no further  
35 action is required with respect to a site subject to a  
36 cleanup or abatement order pursuant to Section 13304,  
37 unless all current record owners of fee title to the site of  
38 the proposed action have been notified of the proposed  
39 action by the state board or regional board.

1 (b) The state board and regional boards shall take all  
2 reasonable steps necessary to accommodate landowner  
3 participation in the cleanup or site closure process and  
4 shall consider all input and recommendations from any  
5 landowner wishing to participate.

6 SEC. 5. No reimbursement is required by this act  
7 pursuant to Section 6 of Article XIII B of the California  
8 Constitution because a local agency or school district has  
9 the authority to levy service charges, fees, or assessments  
10 sufficient to pay for the program or level of service  
11 mandated by this act, within the meaning of Section 17556  
12 of the Government Code.

13 Notwithstanding Section 17580 of the Government  
14 Code, unless otherwise specified, the provisions of this act  
15 shall become operative on the same date that the act  
16 takes effect pursuant to the California Constitution.

